

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jabbar Jomo Straws,

PLAINTIFF

v.

Jean Toal and Alan Wilson,

DEFENDANTS

Case No. 3:15-cv-2562-TLW

ORDER

Plaintiff Jabbar Jomo Straws, a state prisoner proceeding pro se, filed this action asserting various violations of due process related to his state conviction.¹ ECF No. 1. The matter now comes before the Court for review of the Report and Recommendation (R&R) of Magistrate Judge West, to whom this case was assigned. ECF No. 8. In the R&R, the Magistrate Judge recommends dismissing this case without prejudice and without service of process pursuant to Heck v. Humphrey, 512 U.S. 477 (1994). Plaintiff filed objections to the R&R, ECF No. 10, and this matter is now ripe for decision.

In reviewing the R&R, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's

¹ Plaintiff asserts he is serving a 110-year state sentence after being convicted in 2006 by a jury for armed robbery, kidnapping, assault and battery with intent to kill, and carrying a weapon during the commission of a violent crime. ECF No. 1 at 3.

findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court closely reviewed de novo the R&R, Plaintiff's objections, and the record in this case. After careful consideration, Plaintiff's objections are OVERRULED, and the R&R is ACCEPTED. For the reasons articulated by the Magistrate Judge, Plaintiff's complaint is dismissed without prejudice and without service of process.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

January 13, 2017
Columbia, South Carolina